

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

UNITED STATES OF AMERICA

v.

JONATHAN EMMANUEL GOMEZ

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Case No. 2:17-CR-1-JRG-RSP

**REPORT AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE**

On April 27, 2017, the undersigned held a final hearing on the Government's petition (#3) to revoke supervised release. The Government was represented by Assistant United States Attorney Ryan Locker. The Defendant, Jonathan Emmanuel Gomez, was represented by Ken Hawk.

Jonathan Emmanuel Gomez was sentenced on July 21, 2014, before The Honorable Michael M. Anello of the Southern District of California after pleading guilty to the offense of Importation of Methamphetamine, a Class C felony. This offense carried a statutory maximum imprisonment term of 20 years. The guideline imprisonment range, based on a total offense level of 28 and a criminal history category of II, was 87 to 108 months. Jonathan Emmanuel Gomez was subsequently sentenced to 30 months imprisonment to be followed by 3 years of supervised release subject to the standard conditions of release, plus special conditions to include submitted to a search, not entering the Republic of Mexico, participation in substance abuse testing and treatment, and participation in mental health treatment. On April 1, 2016, Jonathan Emmanuel Gomez completed his period of imprisonment and began service of the supervision term.

On February 21, 2017, this petition to revoke was filed. In its petition, the Government

alleges the Defendant violated the following conditions:

1) Standard: The Defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training or other acceptable reasons. Specifically, the Government alleges the following: Since Mr. Gomez's release he has failed to maintain lawful employment.

2) Standard: The Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician. Specifically, the Government alleges as follows: Mr. Gomez tested positive and admitted to the use of marijuana, on or about December 5, 2016.

3) Special: Beginning at a time to be arranged by the probation office, Jonathan Emmanuel Gomez, shall reside in a residential reentry center or similar facility, in a community corrections component, for a period of 180 days. You shall abide by the rules and regulations of the center, and pay subsistence according to the U.S. Bureau of Prisons' guidelines. Specifically, the Government alleges the following: Mr. Gomez was unsuccessfully discharged from the County Rehabilitation Center in Tyler, Texas, on or about February 7, 2017, after he refused to get out of bed to go to work and began cursing at staff members.

The Court scheduled a revocation hearing for April 27, 2017. At the hearing on the Government's petition, and after consenting to the undersigned taking the plea, the Defendant pled true to allegation Nos. 2 and 3 as set forth above. Based on the Defendant's plea of true to the allegations, and with no objection by the Defendant or the Government, the undersigned found that the Defendant did violate conditions of his supervised release, as alleged in the U.S.

Probation Office's petition.

The undersigned thereafter recommended that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for four months followed by one year supervised release with first six months spent in a half-way house. Defendant shall receive credit for time served. Based on the foregoing, it is

RECOMMENDED that the Defendant's plea of true to certain allegations, as set forth in the Government's petition, be **ACCEPTED**. Based upon the Defendant's plea of true to certain allegations, it is further recommended that the Court find that the Defendant violated the conditions of his supervised release. It is further

RECOMMENDED that the Defendant's supervised release be **REVOKED**. It is further **RECOMMENDED** that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of four months followed by one year supervised release with first six months spent in a half-way house. Defendant shall receive credit for time served.

At the close of the April 27, 2017 revocation hearing, Defendant, defense counsel, and counsel for the Government each signed a standard form waiving their right to object to the proposed findings and recommendations contained in this report, consenting to revocation of supervised release as recommended herein and to the imposition of the above sentence. Defendant also waived his right to be present and speak before the District Judge imposes the recommended sentence. Therefore, the Court may act on the findings and recommendation immediately.

SIGNED this 3rd day of May, 2017.


ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE